

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAMELA KIRBY,

Plaintiff,

V.

NANCY A. BERRYHILL, Deputy
Commissioner of Social Security for
Operations,

Defendant.

CASE NO. 3:18-cv-05595-RSM-JRC

REPORT AND RECOMMENDATION
ON STIPULATED MOTION FOR
REMAND PURSUANT TO
SENTENCE FOUR OF 42 U.S.C. §
405(G).

This matter has been referred to Magistrate Judge J. Richard Creaturea pursuant to 28

U.S.C. § 636(b)(1)(B) and Local Magistrate Judge Rule MJR 4(a)(4), and as authorized by

Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on

defendant's stipulated motion to remand the matter to the Administration for further

consideration pursuant to sentence four of 42 U.S.C. § 405(g). Dkt. 20.

1 After reviewing defendant's stipulated motion and the relevant record, the undersigned
2 recommends that the Court grant defendant's motion and reverse and remand this matter to the
3 Deputy Commissioner.

4 On remand, based on the parties' stipulation, this Court recommends that the following
5 conditions apply: the Appeals Council will instruct the administrative law judge (ALJ) to further
6 evaluate the applicability of Acquiescence Ruling 97-4(9), particularly the impact of the
7 claimant's Sjogren's syndrome vs. inflammatory arthritis, as well as the treatment notes from
8 Stanford Lee-Yu Peng, M.D., that relate to the period at issue, which were not considered in the
9 2013 hearing decision. In so doing, the ALJ will also obtain medical expert evidence. The
10 ALJ's finding of disability beginning July 1, 2014, is affirmed and will not be disturbed on
11 remand.

12 Following remand, plaintiff may request an award of reasonable attorney fees and
13 expenses pursuant to 28 U.S.C. § 2412 and costs pursuant to 28 U.S.C. § 1920.

14 Given the facts and the parties' stipulation, the Court recommends that the District Judge
15 immediately approve this Report and Recommendation and order that the case be **REVERSED**
16 and **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

17 Dated this 13th day of February, 2019.

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J. Richard Creatura
United States Magistrate Judge